

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

RANCHO AZUSA HOMEOWNERS) CASE NO. CV 15-8156-DDP (PJWx)
ASSOCIATION,)
Plaintiff,) ORDER DENYING DEFENDANT'S MOTION
v.) TO PROCEED *IN FORMA PAUPERIS* AND
ELLIE PULLIAM, DOES 1 to 5,) REMANDING CASE TO SUPERIOR COURT
Defendants.)

)

Before the Court is Defendant Ellie Pulliam's motion to proceed *in forma pauperis* ("IFP"). For the following reasons, the motion is DENIED and the action is remanded to the Los Angeles County Superior Court.

On October 16, 2015, Defendant, proceeding *pro se*, lodged a Notice of Removal, accompanied by a request to proceed IFP, seeking to remove this unlawful detainer action from state court. The Court has denied the IFP application under separate cover. To prevent the action from remaining in jurisdictional limbo, however, the Court also issues this Order, remanding the case to the Superior Court.

Simply stated, because Plaintiff could not have brought this action in federal court in the first place, there is no basis to remove it. To the extent that Defendant is seeking to federalize the

1 case by raising federal claims in her defense, she cannot do so. The
2 Court considers only the claims raised in the Complaint to determine
3 whether there is federal jurisdiction and does not take into account
4 any federal defenses or counterclaims Defendant raised (or could have
5 raised). *Phillips Petroleum Co. v. Texaco, Inc.*, 415 U.S. 125, 127
6 (1974) (explaining federal questions must be disclosed on the face of
7 the complaint as a defendant's reply is not a basis for federal
8 jurisdiction); *Moore-Thomas v. Alaska Airlines, Inc.*, 553 F.3d 1241,
9 1244 (9th Cir. 2009) (explaining federal law defense does not create
10 federal jurisdiction if the complaint on its face does not present
11 federal question).

12 Plaintiff's unlawful detainer action does not raise a federal
13 question. See 28 U.S.C. §§ 1331, 1441(b). Additionally, Plaintiff
14 and Defendant are from the same state and the amount in controversy is
15 de minimis, therefore, there is no diversity jurisdiction.¹ See 28
16 U.S.C. §§ 1332, 1441(b). For these reasons, the case is subject to
17 remand. 28 U.S.C. § 1441(a); *Exxon Mobil Corp v. Allapattah Svcs.,*
18 *Inc.*, 545 U.S. 546, 563 (2005).

19 Accordingly, IT IS ORDERED that: (1) this matter is REMANDED to
20 the Superior Court of California, Los Angeles County, 300 E. Walnut
21 Street, Pasadena, California, 91101, (2) the clerk shall send a
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28 ¹ Plaintiff's suit is primarily aimed at removing Defendant from
the property. The damages it seeks are \$48.33 per day, beginning
August 25, 2015.

1 certified copy of this Order to the Superior Court and serve copies on
2 the parties.

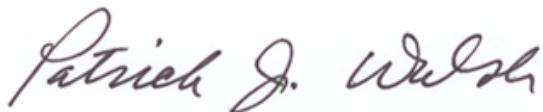
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4 IT IS SO ORDERED.

5 DATED: October 26, 2015



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7 DEAN D. PREGERSON
8 UNITED STATES DISTRICT JUDGE
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14 Presented by:
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16 PATRICK J. WALSH
17 UNITED STATES MAGISTRATE JUDGE
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